



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1998

Mr. Darrin M. Coker
Interim City Attorney
City of Pearland
3519 Liberty Drive
Pearland, Texas 77581

OR98-1988

Dear Mr. Coker:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118240.

The City of Pearland Police Department has received a request for information pertaining to the arrest of an individual who died in custody. You say that the request is from a lawyer retained by the family of the deceased and that the attorney "has openly admitted that a petition will be filed imminently." You seek to withhold some of the requested information -- booking and jail surveillance videotapes, post-mortem videotapes, and photographs of the individual taken by the police department -- under Government Code section 552.103(a), known as the "litigation exception."

Section 552.103(a) excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588

(1991). Having reviewed your arguments and the information at issue, we conclude that you have sufficiently demonstrated that litigation may reasonably be anticipated in this matter. You may therefore withhold the videotapes and photographs at this time.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 118240

Enclosures: Submitted documents

cc: Mr. Benjamin H. Best, II
P.O. Box 1168
Pearland, Texas 77588-1168
(w/o enclosures)